WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,872

IN THE MATTER OF:		Served March 4, 2009
F&O TRANSPORT SERVICE, LLC,)	Case No. MP-2008-248
Suspension and Investigation of)	
Revocation of Certificate No. 748)	

This matter is before the Commission on respondent's response to Order No. 11,775, served December 30, 2008, revoking Certificate No. 748 pursuant to Article XI, Section 10(c), of the Compact.

Under the Compact, a certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.¹ Commission Regulation No. 58 required respondent to insure the revenue vehicles operated under Certificate No. 748 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 748 was rendered invalid on November 20, 2008, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,699, served November 20, gave respondent thirty days to replace the expired endorsement and pay the \$50 late fee imposed by Regulation No. 67-03(c) or face revocation of Certificate No. 748.

Forty days later, having received neither the late fee nor the necessary endorsement(s), the Commission revoked Certificate No. 748 in Order No. 11,775 for respondent's willful failure to comply with Regulation No. 58. Respondent subsequently paid the late fee and filed a \$1.5 million primary WMATC Endorsement and a request for reinstatement of Certificate No. 748.

Title II of the Compact, Article XIII, Section 4(a), provides that: "A party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration." Respondent's application for reconsideration was filed on January 28 but does not allege any error on the part of the Commission.

¹ Compact, tit. II, art. XIII, § 7(g).

Furthermore, when seeking reconsideration of a revocation for failure to comply with Regulation No. 58, a carrier must be in compliance with Regulation No. 58 at the time the application is due. Respondent's replacement endorsement is effective January 26, 2009, instead of November 20, 2008. Under Regulation No. 58-14:

If a carrier's operating authority is suspended under Regulation No. 58-12 and the effective date of a later-filed replacement Endorsement falls after the automatic suspension date, the carrier must verify timely cessation of operations in accordance with Commission Rule No. 28 and corroborate the verification with client statements and/or copies of pertinent business records, as directed by Commission order.

Respondent has yet to file the requisite verification.

In addition, respondent has no effective tariff on file with the Commission as required by Article XI, Section 14, of the Compact.

Therefore, the application for reconsideration shall be denied, and this proceeding shall not be reopened.³

THEREFORE, IT IS ORDERED: That the application for reconsideration is denied without prejudice to respondent's right to reapply for operating authority at a later date.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:

William S. Morrow, Jr. Executive Director

 $^{^2}$ See E.B. Limo. & Transp. Servs., LLC, No. MP-08-201, Order No. 11,795 (Jan. 13, 2009) (application and endorsement must be filed within 30-day reconsideration period).

³ See id. (declining to reopen where carrier not in compliance with Regulation No. 58); see also Addis Transp., Inc., No. MP-07-164, Order No. 11,519 (Aug. 7, 2008) (revoking authority in part for lack of tariff on file with Commission).